

IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
AT KNOXVILLE

October 10, 2000 Session

**FELIPE AGUIRRE v. JAMES and PATSY CHAMBERS, d/b/a BIG C
TOMATO FARM, ET AL.**

**Direct Appeal from the Circuit Court for Cocke County
No. 24,096 O. Duane Sloan, Circuit Judge**

**No. E2000-00980-WC-R3-CV - Mailed - November 16, 2000
FILED: FEBRUARY 9, 2001**

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tenn. Code Ann. § 50-6-225(e)(3) for hearing and reporting to the Supreme Court of findings of fact and conclusions of law. Plaintiff Felipe Aguirre suffered the loss and amputation of his arm as a result of a traffic accident allegedly occurring in the course of his employment with defendant. The circuit court found the accident to be unconnected to his employment and dismissed his suit. We affirm.

Tenn. Code Ann. § 50-6-225(e) (1999) Appeal as of Right; Judgment of the Circuit Court is Affirmed

WILLIAM H. INMAN, SR. J., delivered the opinion of the court, in which HOUSTON M. GODDARD, P.J., COURT OF APPEALS, and JOHN K. BYERS, SR. J., joined.

Michael C. Murphy, Morristown, Tennessee, for the appellant, Felipe Aguirre.

Donald B. Oakley, Morristown, Tennessee, for the appellee, James and Patsy Chambers, d/b/a Big C Tomato Farm and Wausau Insurance Company.

OPINION

The plaintiff is a young migrant farm worker who suffered the loss and amputation of his arm as a result of a traffic accident unconnected, as it developed, with his employment. His suit for workers' compensation benefits was dismissed and he appeals. Our review is *de novo* on the record. We presume the judgment is correct unless the evidence preponderates against it. RULE 13(d) TENN. R. APP. P.

The dispositive facts are not disputed. The plaintiff lived with his father and sisters in a

house located two miles from their place of employment. On the day of the accident he was driving his sisters home after completion of their work day. He lost control of his truck on the graveled road. It overturned and his arm was injured so badly as to require surgical amputation.

Whether the accident arose out of plaintiff's employment is the issue for determination. The plaintiff argues that federal law required the defendant to furnish housing for migrant farm workers. By extrapolation he argues that his voluntary transportation of himself and his sisters and father to and from their residence to the defendant's farm was logically a part of his job duties. There is no evidence in the record to support this argument.

For an injury to be compensable it must arise out of and in the course of employment. As a general rule an injury which occurs while an employee is *en route* to or from work is not compensable because it does not occur in the course of employment. *Smith v. Camel Manufacturing Company*, 241 S.W.2d 771 (Tenn. 1951). There are exceptions to this rule, none of which is applicable here.

The judgment is affirmed at the costs of the appellant.

WILLIAM H. INMAN, SENIOR JUDGE

IN THE SUPREME COURT OF TENNESSEE
AT KNOXVILLE

**FELIPE AGUIRRE v. JAMES AND PATSY CHAMBERS, DBA BIG
TOMATO FARM, ET AL.**

No. E2000-00980-SC-WCM-CV
Filed: February 9, 2001

JUDGMENT

This case is before the Court upon Felipe Aguirre's motion for review pursuant to Tenn. Code Ann. § 50-6-225(e)(5)(B), the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's Memorandum Opinion setting forth its findings of fact and conclusions of law, which are incorporated herein by reference;

Whereupon, it appears to the Court that the motion for review is not well taken and should be denied; and

It is, therefore, ordered that the Panel's findings of fact and conclusions of law are adopted and affirmed, and the decision of the Panel is made the judgment of the Court.

Costs will be paid by Felipe Aguirre, for which execution may issue if necessary.

IT IS SO ORDERED.

PER CURIAM